IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

THURSDAY, THE 26TH JULY 2007 / 4TH SRAVANA 1929

CRL.A.No. 173 of 2002()

CC.69/1997 of I ADDL.SESSIONS COURT, ERNAKULAM
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APPELLANT: COMPLAINANT

STATE OF KERALA,REPRESENTED BY THE PUBLIC PROSECUTOR,HIGH COURT OF KERALA,ERNAKULAM

BY PUBLIC PROSECUTOR SRI.C.K.SURESH

RESPONDENTS: ACCUSED
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1. **SULAIKHA W/O.ASHRAF,KADALIPARAMBIL VEETTIL,VAZHAKULAM,MAVILCHUVADU 4 CENT COLONY, PALLIPURAM KARA,MARAMBILLY VILLAGE, KUNNATHUNADU TALUK**

2. **ASHRAFS/O.KOCHAHAMMED KADALIPARAMBIL VEETTIL,VAZHAKULAM,MAVILCHUVADU 4 CENT COLONY, PALLIPURAM KARA,MARAMBILLY VILLAGE, KUNNATHUNADU TALUK**

BY

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 26/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.R.UDAYABHANU, J

Crl.A.No.173 of 2002

Dated this the 26th day of July, 2007

JUDGMENT

The state is the appellant and the order challenged is the one acquitting the respondents/accused who were charge sheeted for the offence under Section 20(b)(1) of NDPS Act on the allegation that on search of the house of the accused 1 and 2 who are wife and husband respectively the contraband i.e., 970 gms of ganja was seized.

2. The evidence adduced in the matter consisted of the testimony of PWs' 1 to 7, Exts. P1 to P12, C1 and Mos' 1 to 6. The trial court has found that PW6, the detecting officer himself has conceded that the mandatory formalities contemplated under Section 42 has not been complied with. The court has noted that the evidence of PW6, the detecting officer, is not at all satisfactory as to the detection, seizure and the compliance of the statutory formalities. Further, the incident is dated 21.4.1997.

3. In the circumstances, I find that this is not a fit case in

which the appellate jurisdiction against acquittal is to be exercised.

The criminal appeal is dismissed.

K.R.UDAYABHANU,
JUDGE

csl